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APPLICATION NUMBER 101586,052

DOC DATE 9/21/07

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21 SEP 2007

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In re Application of :  
MATSUI et al. :  
Application No.: 10/586,052 :  
PCT No.: PCT/JP05/00283 :  
Int. Filing Date: 13 January 2005 :  
Priority Date: 15 January 2004 :  
Attorney Docket No.: P30310 :  
For: IRES FUNCTIONING IN PLANT :

DECISION ON PETITION

This decision is issued in response to applicants' "Response to Notice of File Missing Requirements" filed 16 April 2007 which is being treated as a petition under 37 CFR 1.181. No petition fee is required.

**BACKGROUND**

On 13 January 2005, applicants filed international application PCT/JP05/00283 which claimed a priority date of 15 January 2004. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire on 15 July 2006.

On 14 July 2006, applicants filed a Transmittal Letter for entry into the national stage accompanied, *inter alia*, by: the requisite basic national fee; a copy of the international application; and a preliminary amendment.

On 16 February 2007, the United States Designated Office (DO/EO/US) mailed a Notification Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a signed oath/declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) together with a surcharge payment were required. The notification set a two-month time limit in which to respond. Furthermore, the Notification indicated that a Sequence Listing had not been filed as required by 37 CFR 1.821(c) and (e).

On 16 April 2007, applicants filed the present petition which was accompanied, among other things: a copy of the declaration(s) and power of attorney(s); a post card receipt dated 14 July 2006; and sequence listing materials responsive to the Notification Of Missing Requirements (including a purported Computer Readable Form (CRF) of the sequence listing).

### DISCUSSION

Applicants state in their present petition that a declaration and power of attorney was received at the United States Patent and Trademark Office on 14 July 2006. A review of the present application reveals that the declaration/power of attorney is not located therein. Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

"A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

Here, applicants have provided a copy of their date-stamped filing receipt. The receipt identifies the application by the first-named inventor, international application number, and attorney docket number. The receipt itemizes, among other things, a declaration and power of attorney. The receipt is stamped "Rec'd OIPE 14 July 2006" across its face is sufficient to indicate that the above item was in fact received in the Office on 14 July 2006.

The sequence listing and sequence listing in computer readable form has been forwarded to Scientific and Technical Information Center for further processing.

### CONCLUSION

Applicants' petition under 37 CFR 1.181 is GRANTED.

In view of the declaration filed 14 July 2006, the Notification of Missing Requirements (Form PCT/DO/EO/905) dated 16 February 2007 is hereby VACATED.

The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.



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